

**COTEJO
DE LA CONDUCTA
DE S.M.
CON LA DE EL
REY BRITANICO,
ASSI**

En lo Acaecido antes de la Conven-
cion de 14. de Enero de este anno de 1739.
como en lo obrado despues, hasta la publi-
cacion de Represalias, y declaracion de
Guerra.

CON LICENCIA EN MADRID.



En la Imprenta de Antonio Marin, vive frente de la
Porteria de la Merced Calzada, á la entrada de la
Calle de Jesus, y Maria.

THE CONDUCT

OF HIS
CATHOLICK MAJESTY

Compared with that of the

BRITISH KING,

As well with Regard to

What happened before the CONVEN-
TION the 14th of January, of this present
Year 1739, as the Proceedings afterwards,
until the Publication of Reprisals and De-
claration of War.



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AUNQUE en la declaracion de Represalias de 20. de Agosto de este anno, manifestó el Rey con su natural, y propria moderacion la rectitud de sus operaciones, y el contrario indecoroso proceder de Ingleses en el mismo Acto, celebrado en Londres en 19 de Julio; oy, que provoca de nuevo aquella Corena à S. M. con mayores invectivas, y no menos débiles apoyos, en la publicacion de Guerre de 22 de Octubre proximo pasado: se hace preciso el descubrir à la Europa la diferencia, que média entre una, y otra razon, para que examinada por el juicio imparcial de los que apetecen la quietud publica, no se atribuya maliciosa, ò ignorantemente à las Armas Espannolas, ni el origen de este rompimiento, ni los lastimosos irremediables efectos, que amenazan con errada politica à la Christiandad.

La primera causa, que exagera el Rey Britanico, como impulsiva à declarar la Guerra, se reduce à una suposicion general, sin hechos determinados, ni sennas individuales, contra los Guarda-Costas Espannolos de la America; atribuyendoles presas injustas, con violacion de los Tratados, y del Derecho de las Gentes, tratamientos barbaros, y crueles, insultos ignominiosos al Pavellòn Inglès: y à S. M. no aver oído sus continuos recursos, ni reparado en ningun modo sus quexas.

Este grito, que se abulta con execraciones, para que no desdiga la voz del Monarca de la altivèz, y viciado espiritu de aquella Plebe; se levanta tambien tan sin medida para confundir los mas justos clamores de los Espannolos, oprimidos largo tiempo hà con verdaderas



WHereas in the Declaration of Reprizals the 20th of *August*, this present Year; the King has manifested with his natural Moderation the Uprightness of his Operations, and, on the contrary, the indigent Proceedings of the *English* in the same Act, published at *London* the 10th of *July*, and now his Majesty being anew provok'd by that Crown with greater Invectives, tho' weekly supported, by a Proclamation of War the 12th of *October* last past, it becomes absolutely necessary to discover to all *Europe* the Difference and Reasons on both Sides to be examined by the impartial Judgment of those who with the publick Quiet and Tranquility, that the World may not, thro' Mallice or Ignorance, impute to the *Spanish* Arms, either the original Cause of the Breaches, or the dreadful and irremediable Effects thro' political Errors, which threatens all Christendom.

The first Cause which is exaggerated by the *British* King, and which induced him to declare War, is reduced to a general Supposition, tho' without any determined Fact, or individual Proof against the *Guarda Costas* of *America*, deeming their Captures to be unjust, with Violation of Treaties, and the Laws of Nations, attributing them barbarous and cruel Treatments, and ignominious Insults done to the *English* Flag, and that no Notice had been taken by his Majesty of the continued Applications that were made to him thereon, or Reparation made in any wise upon their Complaints.

This Cry, which is swell'd with execrable Terms, in order that the Monarch may not disown the Haughtiness, and the vicious Spirit of that Nation, is raised, likewise, to silence the justest Clamours of the *Spaniards*, who lay so long oppressed under real
Pyracies

deras pyraterías, persecuciones, y atrocidades ; pero llega ya el caso de no ocultar con la tolerancia, ni el disimulo estos hechos ; y entre tantos, como claman por satisfaccion, se referirán algunos, que sin admitir disputa, están por notoriedad, y plena justificacion calificados, para que se evidencie lo que ha sufrido la España, solo por no llegar á las extremidades de una Guerra.

En los años de 1716. y 1717. dos Capitanes Cuthbert, y Archer, del Baxel Pompey Galli, y el Vergantín la Fortuna, autorizados por el Rey Británico, fueron por la Costa de la Florida, á recoger quanto pareciese de los Galeones naufragados en aquel parage ; y juntos con los que ya se hallaban allí de Jamayca á practicar una igual violencia, no solo ahuyentaron hostilmente á los Españoles, que baxo las seguridades de la Paz, y del legitimo derecho de su Soberano á aquellos caudales, trabajaban en sacar á tierra, lo que le pertenecía ; sino que saltando en ella con seiscientos hombres, y muertos treinta de los ciento y veinte, que guardaban lo ya redimido del Mar, robaron cerca de quatrocientos mil pesos, sin mas disfráz, que el de su codicia, que aun no saciada con una cantidad tan exorbitante, se repitió en su buelta á Jamayca en la aprehension de dos Embarcaciones con Cacao, Cochinilla, y dinero, de valor de mas de treinta mil pesos ; como si les fuera licito para la execucion, todo lo que se antojasse por útil á su voluntad.

No menos estrano, y violento es lo acaecido el año de 1722. Apresaron Ingleses una Embarcacion de Puerto-Rico con Patente de su Governador, y conducida á Jamayca, sin presuponer otra culpa, que la de ser Guarda-Costas, ahorcaron con inaudita resolucion quarenta y tres hombres del equipage ; publicando para autorizarla, que tan levantado era el Governador como ellos : nueva ley, que inventó el enganno para honestar la tyrania, y la no impuesta hasta

tyrannies, Persecutions, and Enormities; but now 'tis High Time no longer to tolerate, nor dispense these Facts, and since they claim for Satisfaction, there is set forth some of them which can admit of no Dispute as being notorious, and, in course of Justice, fully proved; by which it will be demonstrated what Spain has suffered, only to avoid the Extremities of a War.

In the Years 1716 and 1717, two Captains, *Cass* and *Archer*, of the *Pompey* Galley, and the *Brigantine Fortune*, authoriz'd by the *British* King, went upon the Coast of *Florida* to take up all they could find in the Gallies shipwreck'd there, and joining with some others from *Jamaica*, come there to practice the like Violence, they not only drove the *Spaniards* away in a hostile Manner, who (under the Security of Peace and lawful Rights of their Sovereign to those Goods) had come there in order to save what could be got out of them; but also made a Descent ashore with 500 Men, and killed 30 of the 120 *Spaniards*, who had the Care of what was sav'd or redeem'd from the Sea, and robb'd them of near 400,000 Pieces of Eight, without any other Pretence but their Avarice; and not being satisfied with such an exorbitant Sum, they repeated the same on their Return to *Jamaica*, and took two Vessels laden with *Cochineel*, *Cocoa*, and Money to the Value of 30,000 Pieces of Eight, as if it were lawful for them so to do, and to follow their own Inclinations in any Shape with Regard to their Interest.

Not less strange and violent is what fell out afterwards, in the Year 1722, when the *English* made Prize of a Vessel belonging to *Porto Rico*, with a Commission from their Governor, and carried her to *Jamaica*; where, not pretending to alledge other against her, than that she was a *Guarda Costa*, they, with unheeded Barbarity, hang'd 43 of her Crew, and, to authorize the Fact, publicly gave out, that their Governor was of the same Stamp with themselves; a new Law,

hasta aora por Nacion alguna, de las que conocemos arregladas à los preceptos de la naturaleza, y de la equidad.

Este barbaro exemplo de tratar en la Paz à los Espannoles en una Colonia como Jamayca, con mas inhumanidad, que à los mas detestables enemigos, le siguiò un Capitan Inglès, de los que insidian no menos con el trato illicito, que con sus impiedades, nuestras Costas. Atraxo al bordo de su Navio, con pretexto de comerciar, à dos Espannoles de no comun distincion; y concibiendo mas ganancia con las personas, que en el trato, para reducirlos al rescate, que los propuso, los dexo dos dias sin alimento alguno; y à vista de que no lograba por el martyrio del hambre lo que apètecia, cortò al uno orejas, y narices, y con el punnal al pecho, le forzò à comerlas: atrocidad, que horroriza à la memoria, y que no es menester ponderarla, para que irrite.

Antes de declararse la Guerra en el anno de 1727. inducido sin duda de aquel espiritu de odiosidad, y rencor, que predomina en la Nacion Britanica contra la Espannola, especialmente en la America; se introduxo un Inglès en un Navio del Assiento, para concitar los Negros de la Havana, y persuadirlos la mas terrible sublevacion; ofreciendoles como premio la libertad, si unidos para la execrable perfidia, que les aconsejaba, saqueassen aquel Pueblo, y degollassen sus moradores: intento tan criminoso, que passaria por inverosimil, si la notoriedad, y los testimonios que le confirman, no acreditassen su certidumbre.

Pero aun mas delinquentes arbitrios han buscado los Ingleses, para intimidar à los Espannoles, con el fin de que no se opusiesen à su continuo illicito comercio: vendiendolos en reiteradas ocasiones por Esclavos, ya en distancias donde no alcanzasse à reclamarlos la noticia de su miserable destino, y ya en otros parages, donde

Law, wickedly invented to give Tyranny a Sanction: a Law never imposed by any Nation, hitherto, of those known to be conformable to the Rules and Precepts of Nature and Equity.

This barbarous Example of treating *Spaniards* in Time of Peace (in a Colony like *Jamaica*) with more Inhumanity than ever shewn to the most detestable Enemies, was after imitated by an *English* Captain, one of those who was not only known on our Coasts as an illicit Trader, but for his Impieties, allured aboard his Vessel two *Spaniards* of no mean Distinction, and conceiving that more Gain might be got by their Persons than by Trade, to oblige them to pay Ransom for their Liberty (which he proposed to them) he kept them two Days without Nourishment, and finding he could not attain his Ends thro' the Miseries of Hunger, he cut off the Ears and Nose of the one, and with a Poinard at his Breast, forced him to eat them; Cruelty terrifying to the Memory, and not to be reflected on, to avoid giving Horror.

Before the Declaration of War, in the Year 1727, doubtless, out of the same Spirit of Hatred and Rancour, which is predominant in the *English* Nation against the *Spaniards*, especially in *America*, an *Englishman* was introduced in one of the *Assiento* Ships to stir up the Negro's at the *Havana*, and to persuade them to the most terrible Rebellion, offering them, as a Reward, their Liberty, and, if united in that most execrable Perfidy, he counselled them to sack the Town, and to murder all its Inhabitants; a Design most heinous and passing all Credit, if the Testimonies which attend did not confirm its Certainty.

Yet, a great many more such Enormities have the *English* made use of to intimidate the *Spaniards*, with a View to prevent their being opposed in carrying on their continued and unlawful Trade, selling them many and repeated Times for Slaves in distant and remote Parts, where they could not find means to make
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donde acaso los conduxo la ceguedad de su culpa porque no quedasse ignorado un proceder tan enorme : como sucedió el año de 1725. en la Isla de la Madeira con ocho infelices, de que dió aviso el Consul de España, que allí reside, y cuya libertad pidió nuestro Embaxador en Lisboa à aquel Soberano.

Si estos sucesos, y otros iguales, que se omiten, pudieran alegarlos los Ingleses, es cierto, que justificarian su declaracion de Guerra ; pero las presas executadas en los que comercian ilícitamente, (verdad, que aun sus mismos Autores califican, pues señalan seis millones anuales de ganancia en este tráfico) y el repeler con la fuerza, à los que intentan con las armas, apoyar sus fraudulentas introducciones, ni merecen el baldón con que se enuncian, ni son bastantes para el estrépito que se publica ; antes bien la Inglaterra misma debiera sostener estos procedimientos, como obligada por el Artículo VIII. del Tratado de Utrecht, à garantir las Leyes fundamentales del Reyno, que prohiben à los Estrangeros la entrada, y trato en nuestros Mares, y Dominios de la America. Tienen, por ventura, los Ingleses algun pacto que alegar, para que les dexen impunemente los Españoles desamparadas las Costas, y desiertos los Golfos, à fin de que el enjambre de sus Barcos vaya libre, y sin obstaculo à chupar sus Minas ? No ay Tratado que tal consienta, ni el Derecho de las Gentes, con que tanto claman, se estienda à estas amplitudes. Han ido acaso los Españoles con violacion del sagrado de la Paz, à inquietar sus Colonias, à inundar con clandestino trato sus plantaciones, ni à robar sus frutos, ò sus haberes ? Pues en qué se fundan estas quejas ? No se puede, no, imputarles con justicia este borron ; pues siempre que se ha reconocido en las presas hechas por los Guarda-Costas la falta de aquellos requisitos necesarios à su validacion, se han mandado restituir à sus dueños ?
de

known their miserable Destiny, and also to other Places, where their blind Wickedness led them, in order that their Enormities should be brought to Light, as it happened in the Year 1725 at the Island of *Madera*, with eight of those unhappy People which the *Spanish* Consul, who resides there, and gave Advice of, and, thro' the Intercession of our Embassador at the Court of *Lisbon*, their Liberty was granted by that Sovereign.

If these Facts, and others of the same Nature, which we omit, could be alledged against us by the *English*, then, certainly, they could justify their Declaration of War; but the Prizes taken from those who carry on an illicit Trade (a Truth which even their own Authors seem to acknowledge, since they specify Six Millions yearly Gain from this Trade) and the repelling, with Force, those who intended, with Arms, to support their fraudulent Contrabands, neither deserve the Reproaches, nor are sufficient Motives for the great Noise and Clamours made about them; on the contrary, *England* her self ought not to countenance those Proceedings, as she is obliged to by Article VIII. in the Treaty of *Utrecht*, to guarantee the fundamental Laws of the Kingdom, which prohibits Strangers entering, or trading in, our Seas or Dominions in *America*. Have the *English* any Agreement to shew that the *Spaniards* should leave their Coasts and Harbours unguarded? or that they should allow Swarms of *English* Ships, freely, and without Obstacle, or unpunish'd, to go and suck the Produce of their Mines?

There is no Treaty consents to such, nor the Laws of Nations (which the *English* stick so close to) can extend to such Amplitude. Have the *Spaniards*, at any Time, ever violated the sacred Ties of Peace, or disquieted their Colonies, held any clandestine Trade with their Plantations, or robb'd their Fruits or Goods? then what are these Complaints founded upon? No, they cannot, in Justice, impute this Blot to us, since it has always been acknowledged, that the Prizes taken by

de que se infiere, que quanto en la America se ha obrado, dimana del desenfreno de los Ingleses, y no de ofensa procurada por los Espannoles.

Otro de los motivos, que pondera el Rey Britanico en su Manifiesto, y publicacion de Guerra, se deduce de la absoluta libre Navegacion en los Mares Americanos; suponiendo à los Espannoles primer movil de esta disputa, y callando aver sido los Plenipotenciarios Ingleses los que comenzaron à agitarla en las Conferencias, que dimanaron de la Convencion de 14. de Enero de este anno, y se tuvieron en Madrid. No es justo renovar aora la question, por no hacer de este Papel un Alegato; pero no debe tampoco omitirse, el publicar, para desenganno de la Europa, que las pretensiones de S. M. no exceden ni en un apice del literal sentido del proprio Tratado de 1670. que decanta el Rey Britanico, infringido por esta Corona; y que, ò resulta del, que la Navegacion en los Mares de America es con cortissima diferencia tan libre como en los de Europa; ò que lo propuesto por los Plenipotenciarios Ingleses en la Conferencia de 25. de Junio es destructivo de la mente, y tenor de aquel Tratado, y del Artic. VIII. del de Utrecht, que se citò arriba. Y para que lo juzgue el Mundo, mientras las armas lo diciden, se pondrà aqui à la letra el referido Papel, y reconoceràn, los que sin preocupacion le exhaminen, y cotejen, quien ha pedido con voluntariedad, è indeterminadamente, sin atencion à pactos, ni ofertas; y quien se ha arreglado con estricta religiosidad à uno, y otro.

the *Guarda Costas*, when they wanted what was required as necessary for their Validity, they were always ordered to be restor'd to their Owners; from which may be inferr'd, that all that has been carried on in *America*, is owing to the unbounded Liberties of the *English*, and not to any Offence procured by the *Spaniards*.

Another of the Motives which the *British* King insists upon in his Manifesto and Publication of War, drawn from the absolute and free Navigation in the *American* Seas, supposing that the *Spaniards* have been the *primum Mobile* of this Dispute, and passing over in Silence that the *English* Plenipotentiaries were those who first begun to put such in Agitation in the Conferences which followed the Convention the 14th of *January* of this Year, and were held in *Madrid*, it is not just to renew the Question at present, nor to make of this Paper a heap of Allegations; yet, it is neither omitted to declare publicly, in order to undeceive all *Europe*, that the Pretensions of his Majesty do not exceed, in the least Point, the literal Sense of the very Treaty of 1670, which the *British* King crys out to have been infring'd by this Crown, or, at least, may be inferr'd from it, that the Navigation in the *American* Seas is, with very little Difference, as free as in the Seas of *Europe*; or, that what was proposed by the *English* Plenipotentiaries in the Conference of the 25th of *June*, is destructive to the real Spirit and Tenour of that Treaty, and of the 8th Article of *Utrecht* above mentioned; and that the World may judge, till the Arms decide, here will be set down Word for Word the aforesaid Paper, and those who will examine and compare it impartially, will be fully convinced who has made Demands arbitrarily and indeterminately, without any Regard for Treaties or Offers, and likewise, such have confirm'd most to the religious Rules and Strictness, with Regard to the other.

„ En consecuencia de la resolución tomada por los
 „ Plenipotenciarios respectivos en la Conferencia que
 „ se tuvo en 17. de este mes, los de S. M. se aplica-
 „ rán en este Memorial unicamente al punto de la
 „ Navegacion en los Mares de la America. Y por
 „ quanto se ha reconocido por una, y otra parte en el
 „ preambulo de la Convencion, que la Visita, fon-
 „ deo, y toma de Baxeles, embargo de Efectos, &c.
 „ de algunos annos à esta parte han dado lugar à dis-
 „ putas gravissimas entre las dos Coronas de la Gran
 „ Bretanna, y Espanna; y que por el primer Artículo
 „ de dicha Convencion se ha estipulado, que se nomi-
 „ brarán Plenipotenciarios de una, y otra parte, para
 „ hallar el medio de prevenir semejantes motivos de
 „ quexa en adelante, y alexar absolutamente, y para
 „ siempre, todo lo que pudiesse dár ocasion à ellas:
 „ los Plenipotenciarios de S. M. para cumplir quanto
 „ de ellos dependa, las obligaciones en que están em-
 „ pennados por el empleo que les ha sido confiado, y
 „ conformarse à las intenciones de su Soberano; es à
 „ saber, de mantener la antigua amistad, tan apete-
 „ cible, y necessaria por el interès reciproco de las
 „ dos Naciones, previniendo de una vez para todos
 „ los injustos robos, presas, y embargo de Bageles,
 „ y Efectos de los Vassallos de S. M. en la America,
 „ como tambien todas las crueldades que se han exe-
 „ cutado, respecto de sus personas: proponem, que
 „ el Tratado que se haya de hacer sea declarado, y
 „ convenido; que como por el Artic. XV. del Tra-
 „ tado de 1670. fue estipulado lo que se sigue: *Este*
 „ *Tratado no derogará las Prebeminencias, Derechos, y*
 „ *Dominios, que qualquiera de las Partes Confederadas*
 „ *tenga en los Mares de America, Estrechos, y qualesqui-*
 „ *era Aguas; antes bien todo esso lo posean, y retengan*
 „ *con la misma amplitud, que por Derecho les compete.*
 „ *Però téngase entendido siempre, que de ninguna manera*
 „ *se debe interrumpir la libertad de Navegar, con tal que*
 „ *nada se cometa, ò peque contra el legitimo sentido de*
 „ *estos*

In consequence of the Resolution taken by the
 respective Plenipotentiaries in the Conference held
 the 17th of this Month, those of his Majesty shall
 insist in this Memorial, only the Point with Regard
 to Navigation in the *American* Seas ; and whereas it
 has been acknowledged by one other Part in the Pre-
 amble of the Convention, that Visiting, Stoppage,
 Capture of Ships, Embargo of Effects, &c. for
 some Years on our Part, has give Occasion to very
 great Disputes between the two Crowns of *Great*
Britain and *Spain*, and by the first Article of the
 said Convention, it was stipulated to name Plen-
 potentiaries on each Part, in order to find means to
 prevent the like Motives of Complaints for the fu-
 ture, and absolutely to remove for ever all that
 might give Occasion of others : The Plenipotentiary
 of his Majesty to comply all in their Power with the
 Charge they were intrusted with, and conformable
 to the Intentions of their Sovereign, which is to be
 understood, to maintain the ancient Friendship so
 much wish'd, and necessary for the reciprocal Inte-
 rest of the two Nations, and to prevent at once the
 unjust Robberies, Captures, and Embargos of Ships
 and Effects of the Subjects of his Majesty in *Ame-*
rica, as likewise all the Cruelties which have been
 exercised, with Respect to their Persons ; do pro-
 pose, that in the Treaty to be made, it shall be
 declared and agreed, that as by Article the 15th,
 of the Treaty of 1670, it was stipulated as follows ;
This Treaty shall not derogate from the Prebeminency,
Rights and Dominions, which either of the confederate
Parties have in the American Seas, Straights or Bays
whatsoever ; rather that they shall possess and retain
the same with such Amplitude, as in Right belongs to
them ; yet, always it is to be understood, that in no wise
the Liberty of Navigation shall be liable to Interruption,
insomuch, that nothing be erroneously committed against
the true and lawful Meaning of these Articles. That,

„ *estos Capítulos.* Que para explicar mas claramente
 „ dicho Artículo, y asegurar tanto mejor la libertad
 „ de la Navegacion, que en él está estipulada, se ha
 „ convenido, y declarado, que no es, ni será de nin-
 „ guna suerte permitido à algun Bagel de Guerra,
 „ perteneciente à la una, ò la otra de las dos Poten-
 „ cias ò Armador, asistido de Poderes, ò Comission
 „ de Parte del uno, ò del otro de los dos Soberanos
 „ Contratantes, ò de la de algun Governador, ò otro
 „ Oficial autorizado de una, ò otra parte, para dár
 „ comisiones; ò en fin, à algun Navio, ò Embar-
 „ cacion perteneciente à la una, ò la otra de las dos
 „ Naciones, detener, embargar, arrestar, visitar, ò
 „ examinar en Mar los Bageles, ò Embarcaciones
 „ pertenecientes à Vassallos de las dos Naciones re-
 „ spectivas, en los Mares de la America, baxo de
 „ qualquior motivo, ò pretexto que ser pueda.

„ Que además sea convenido, que si aconteciere
 „ que algun Bagel autorizado por la una, ò la otra
 „ de las dos Coronas, para prevenir el Comercio ili-
 „ cito, ò empleado por qualquier otro motivo, que
 „ ser pueda, ò autorizado de una Comission de parte
 „ de algun Governador, sea Inglés, sea Espannol, en
 „ las Indias, llegasse à arrestar, embargar, detener,
 „ visitar, ò examinar qualquier Navio, ò Embarca-
 „ cion, sea perteneciente a Vassallos de la una, ò la
 „ otra de las dos Coronas, en los Mares de la Ame-
 „ rica, se hará una entera restitucion de los tales Ba-
 „ geles, y Efectos, como tambien una amplia repa-
 „ racion de todos los danos padecidos. Y que el Ca-
 „ pitán, ò Comandante del Bagel, que huviesse co-
 „ metido semejante acto de violencia, será privado
 „ de su Comission, y nunca mas empleado en el ser-
 „ vicio marítimo de la Corona, cuyo Vassallo fuesse.
 „ Y que si pareciere por pruebas autenticas, que al-
 „ gun Governador, sea Inglés, sea Espannol, en la
 „ America, huviesse concedido Poderes, ò Comis-
 „ siones à algun Armador para atajar, embargar, de-
 „ tener,

' to explain more clearly the said Article, and to
 ' secure better the Liberty of Navigation, which is
 ' stipulated therein, it is agreed and declared, that
 ' it is not, nor shall be in any sort permitted, for
 ' any Ship of War, belonging to one or the other
 ' of the two Potentates, or any Privateer, assisted
 ' with the Powers or Commission of the one or the other
 ' of the two Sovereign Contractors, or to any Governor,
 ' or other Officer, authorized by the one or the other
 ' Party, to give Commissions, or, in fine, to any Ships
 ' or Vessels belonging to the one or the other of the
 ' two Nations, to detain, embargo, arrest, visit, or
 ' examine at Sea, the Ships or Vessels belonging to
 ' the Subjects of the two respective Nations in the
 ' *American Seas*, under any Motive or Pretence what-
 ' ever.

' That it shall be also further agreed that, if it shall
 ' happen that any Vessel, authorized by either of the
 ' two Crowns to prevent illicite Trade, or employed
 ' upon any other Motive whatsoever, or authorized
 ' with a Commission from any Governor, either *Eng-
 ' lish* or *Spanish*, in the *Indies*, should arrest, embar-
 ' go, detain, visit or examine, any Ship or Vessel be-
 ' longing to the Subjects of either of the two Crowns in
 ' the *American Seas*, a full and intire Restitution shall be
 ' made of such Vessels and their Effects, as well as an
 ' ample Reparation of all Damages sustained; and
 ' that the Captain, or Commander of such Vessel,
 ' who shall commit such Acts of Violence, shall be de-
 ' prived of his Commission, and never more be em-
 ' ployed in the Service of that Crown who's Subject
 ' he is. And if it should appear by authentick Proof,
 ' that any Governor, either *English* or *Spanish*, in *Ame-
 ' rica*, should have granted Power or Commission to
 ' any Privateer to stop, embargo, detain, visit or
 ' examine, at Sea, the Shipping of the one or other
 ' Part, such Governor shall be deprived of his Post,

„ tener, visitar, ò examinar en Mar las Embarcacio-
 „ nes de una ò otra parte, el tal Governador será pri-
 „ vado de su empleo, y nunca mas empleado en ser-
 „ vicio de la Corona, de quien fuesse Vassallo.

„ Estas proposiciones son de tal suerte conformes à
 „ la mente, y letra del Tratado de 1670. reconocido
 „ de una, y otra parte por regla, por la qual deben
 „ ser decididas todas las disputas, que miran à la Ame-
 „ rica, que no se sabria dudar, que los Sennores
 „ Plenipotenciarios de S. M. C. no estèn convencidos,
 „ de que nada hay mas justo, razonable, ni propio,
 „ para prevenir todos los inconvenientes, de que en lo
 „ pasado se han quejado, que lo que se acaba de
 „ proponer sobre la materia de que se trata. Fecho
 „ en Madrid en 25. de Junio de 1739.

Produce tambien el Rey Britanico por causa de la Guerra, el aumento de derechos sobre las Mercancias de sus Subditos; y aunque teniendo reconocido la misma Inglaterra, en sus Tratados, ser este un efecto de la Soberania; y especialmente en el de 1667. con el Rey de Dinamarca sobre los Dacios del Sund, no era necesario tocar con mayor extension esta materia: se remitirà tambien à las Actas de su Parlamento el cotejo de esta quexa, para que vistas allí las innovaciones practicadas en todos tiempos, se reconozca, que, ò ha de faltar la reciproca entre los Reyes, ò que no faltando, se convence de insuficiencia, y mendigado este pretexto; ò bien que del mismo modo, que intentò alguna vez la Inglaterra arrogarse el dominio del Mar Britanico, por la sola casualidad del nombre, pretenda aora prerrogativas, y exempciones entre los Soberanos, por el unico fundamento de su altivez, y antojo.

Ponderase no menos por causa de la Guerra, el haver publicado las Represalias en estos Reynos, y pasado à su execucion, sin assignar termino; y siendo, como es notorio,

and never more be employed in the Service of that Crown whose Subject he is.

These Propositions are so conformable to the Meaning and Letter of the Treaty of 1670, and so well known to both Parties for a Rule by which all Disputes, with regard to *America*, ought to be decided, that there should remain no Doubt, but the Lords Plenipotentiaries of his Catholick Majesty are convinced that nothing can be more just, reasonable, and proper, to prevent all the Inconveniences which hitherto has been complained of, than that which is just proposed upon the Matter in question. Done at *Madrid* the 25th of *June*, 1739.

The *British* King likewise alledges for a Cause of War, the Augmentation of Duties on the Merchandizes of his Subjects, and tho' *England* has acknowledged the same in her Treaties as an Effect of Sovereignty, and especially in that of 1667, made with the King of *Denmark*, concerning the Duties of the *Sound*; it is needless to enlarge further upon this Subject. The Comparison of that Complaint must be likewise referred to their Acts of Parliament, seeing in their Innovations, practised at all times, it may appear that either mutual Understanding between Kings must be at an End, or, if it subsists, it is evident that this Pretence is a poor and trifling one; or in the same manner that, as formerly, *England* has arrogated to herself the Dominion of the *British* Seas, only for its causally having that Name, she may now pretend to Prerogatives and Exemptions among other Sovereigns, from no other Foundation than her Haughtiness and Pride.

Another Reason assigned for a Cause of War, is our having published an Order for making Reprisals in these Kingdoms, and executed the same without assigning time; and as it is notorious that such was first published

notorio, que las publicó primero el Rey Británico en 10 de Julio, que inmediatamente se detuvieron allí tres Naves Vizcaynas, no obstante el clamor de los Interesados, y que las del Almirante Haddock, puestas en los Cabos de Santa Maria, y San Vicente aprefaron otras: no se alcanza, qué obligacion liga à S. M. que no reconozca en sí el Rey Británico; ni que privilegio hace licita la Represalia en Londres, y la constituye en Madrid culpable.

Tantas veces se declama en la referida Publicacion de Guerra contra las infracciones de los Tratados, que no se puede ya callar la finrazon de las muchas, que han cometido los Ingleses; para que se conozca, que tienen los Espannoles mas fundados motivos de alegarlas, con especialidad desde el Tratado de Utrecht de 1713 pues haviendose obligado en el Artic. XV. à conservar indemnes los derechos, que para la Pesca del Vacallao en Terranova, competian à los Vizcaynos, y otros Pueblos de esta Corona; y en el Artic. II. del Tratado de 1721. à dár las ordenes, que se pidiesfen para el cumplimiento de aquel, aún oy permanecen despojados de lo que tan legitimamente les corresponde. Lo mismo sucede con el Artic. X. del mismo Tratado de Utrecht; pues obligada en él la Inglaterra à no dár asylo, ni entrada en Gibraltar à Embarcaciones de Guerra de los Moros, no solo se ha executado lo contrario con gravissimo perjuicio de S. M. y de sus Vassallos, sino que aun viniendo acosadas de los Espannoles, han hallado en su Artilleria seguridad, y abrigo; para bolver desde allí mas facilmente con la inmediacion, à insultar las Costas, y à interrumpir el Comercio. Del mismo modo se ha saltado à este Artículo en las extensiones pretendidas, aun practicadas, que se limitan en él; y assi, aviendose cedido esta Plaza sin *Jurisdiccion alguna territorial, y sin comunicacion alguna abierta con la Region circunvecina de la parte de tierra,* solicitaron que debia comprehenderse su dominio hasta el tiro del Cannon; y no obstante, que se convino en el

hished by the *British* King on the 12th of *July*, and immediately thereon detained three *Bischoigne* Ships, notwithstanding the Clamours of those concerned in them, and those of Admiral *Haddock*, stationed off the Capes of *St. Mary* and *St. Vincent*, took several others; it cannot be conceived what Obligation ties his Majesty not to regard himself on the same Footing as the *British* King, nor what Privilege makes lawful the Reprials at *London*, and held illegal at *Madrid*.

So often do they declaim in the late Publication of War, against the Infraction of Treaties, that it cannot be hushed in Silence the many and unreasonable ones committed by the *English*, and, in order to make appear that the *Spaniards* have more room to alledge them on Motives better founded, especially since the Treaty of *Utrecht* in 1713, for having obliged themselves in the 15th Article of the said Treaty to preserve indemnified the Rights of fishing for Cod, at *Newfoundland* that belonged to the *Bischoigners*, and to other People of this Crown, and in the 2d Article of the Treaty of 1721, to give the Orders, if required, to compleat the same, yet at present they remain deprived of what so lawfully belongs to them. The like happens with regard to the 10th Article of the same Treaty of *Utrecht*; *England* obliges herself not to give Sanctuary, or permit entering into *Gibraltar*, any Vessel of War belonging to the *Moors*: They have not only acted contrary to this, to the grand Prejudice of his Majesty and his Subjects, but also, when they have been chased in by the *Spaniards*, they have protected them under their Artillery, in all Safety, till, in going from thence, they have with more Facility insulted the Coasts, and interrupted our Commerce.

In the same manner this Article has been contravened, with regard to the pretended Extentions even now practised, tho' limited therein, so that this Place having been ceded without any Ternational Jurisdiction, and without any open Communication with the

en anno de 1728. en dexar desamparados recíprocamente los puestos sobre que se formò la disputa; que eran, uno enfrente de la Torre de Ginoveses, otro arimado al Monte debaxo del Pastelillo, y otro à la parte de Levante, poco apartado del Monte, y à corta distancia de la Torre del Diablo, los han ocupado despues, sin attender al juste, ni considerar el agravio. Y no es solo este faláz proceder, el que se ha experimentado en punto de esta Plaza; pues haviendo el difunto Rey de Inglaterra Jorge I. en Carta de $\frac{1}{13}$ de Junio de 1721. ofrecido à S. M. la restitucion; no obstante haver sido este promessa un medio condicional de concluir el Tratado entonces pendiente, y que se firmò en Madrid el dia 13. de aquel mes, ni se cumplió como era justo, ni aprozecharon instancias, ni reconvençiones para ello. Pondràse aqui la Carta reducida à nuestro Idioma, para no dexar la menor duda en todo el hecho.

Sennor mi hermano: He sabido con extrema satisfaccion, por medio de mi Embaxador en essa Corte, que V. M. està por fin en la resolucion, de quitar los obstabulos, que por algun tiempo han dilatado el entero cumplimiento de nuestra union: Y respecto de que por la confianza, que V. M. me manifiesta, puedo contar como restablesidos los Tratados, sobre que se ha disputado entre nosotros, y que por consecuencia se havrán explanado los Instrumentos necessarios al Comercio de mis Subditos, no me detengo ya en assegurar à V. M. mi prontitud à satisfacerle, por lo que mira à la restitucion de Gibraltar, prometiendole, que me valdrè de la primera favorable ocasion para reglar este Artículo con intervencion de mi Parlamento.

Tambien se ha eludido el Artic. VIII. del Tratado de Utrecht, respectivo à limites en America, no obstante las Ordenes ofrecidas en el II. del de 1721. y assi en el anno de 1724. despues de repetidas instan-

the adjacent and contiguous Land, the *English* demanded their Limits should be comprehended as far as Gun-shot; and notwithstanding it was agreed in the Year 1728, to leave reciprocally empty the Posts in dispute, which were the one opposite to the Tower called the *Genoes*, the other near to the Mount below the *Pastillo*, and another towards the East, a little Distance from the Mount, and a small Distance from the *Livels Tower*, yet the *English* siezed them without waiting for the Adjustments, or considering the Injury; what has been suffered, with regard to that Place, is not only Proof of their fallacious Proceedings, since the late King of *England*, *George I.* having offered to his Majesty the Restitution of it by his Letter of the 12 of *June*, 1721; notwithstanding that Promise was used as conditional Means to conclude the Treaty depending, which was signed at *Madrid* the 13th of that Month, yet it was not complied with as it was just, neither could any Instances or new Proposal about it prevail; and that there may be no room for Doubt of the Fact, here follows the Copy of that Letter translated into our Language.

Sir and Brother, — I have heard with extream Satisfaction, by means of my Ambassador at your Court, that your Majesty is at length resolved to remove all Obstacles, which for some time retarded our perfect Union, and since, in respect to the Confidence your Majesty reposes in me, I may reckon as reestablished those Treaties which were in dispute between us, and consequently those Instruments have been explained which were necessary for the Trade of my Subjects. I make no longer delay to assure your Majesty of my Readiness to give Satisfaction in regard to the Restitution of *Gibraltar*, and promise to use my Endeavours the first favourable Opportunity to regulate that Article, with the Approbation of my Parliament. —

Likewise the 8th Article of the Treaty of *Utrecht*, with respect to the Limits of the *American Seas*, has been eluded, notwithstanding the Orders offered in the 2d Article of that of 1721, and also in the Year 1724, after
many

cías sobre la demolición del Fuerte de la Tamaja,
 edificado por Ingleses en Territorio indisputablemente
 de S. M. y de averse convenido, que los Gobernadores
 de la Florida, y Carolina, se comunicassen las Orde-
 nes, para arreglar esta disputa : haviendo aquel ambi-
 ado un Oficial con veinte y cinco hombres, y las co-
 pias de las de Inglaterra, fueron despojados de sus
 Armas, encerrados en el Fuerte, y conducidos à los
 tres dias à la Carolina, donde sufrieron mas rigurosa,
 è indecente prision. La misma mala fee se observò
 el anno de 1735. assegurando el Ministerio Britanico
 à Don Thomàs Geraldino, Ministro Plenipotenciario
 de S. M. en Londres, que Don Diego Oglethorpe,
 destinado à la Carolina, llevaba el encargo de ar-
 reglar sus limites, en concurrencia, y de conformidad
 con el Gobernador de la Florida, y fueron tan contra-
 rias las que le manifestó à su arribò, que contenian,
 que huviesse de poblar todo lo que no lo estuviesse :
 para cuya execucion pasó inmediatamente à varios
 actos de hostilidad, hasta presentarse con gente armada
 à vista del Presidio de San Agustín : accion muy con-
 forme à la Patente que expidió el Rey Britanico en 2^o
 de Junio de 1732. en que dispone de los Dominios de
 aquel Continente, y aun del Mar, concediendo à la
 Compannia formada para el establecimiento de la Co-
 lonia de la Georgia, quanto no estuviesse anteriormente
 ocupado por Vassallos de Inglaterra : cession ex dia-
 metro opuesta al Artic. VII. del Tratado de 1670.
 que excluye de su derecho, todo lo que en aquel tiem-
 po no tenia, ni poseia ; bien que no debe estranarse
 este despotismo, pues entre otras usurpaciones, que se
 han reclamado varias veces por la Espanna, no se a-
 poya mejor la del corte del Palo de Campeche, defen-
 dida con la fuerza, y no con la razon, hasta el exceso
 de arruinar en tres diferentes sitios al desgraciado Pue-
 blo de Bacallar, porque defendia fiel la justicia de
 S. M. y embarazaba la continuacion del delito.

many repeated Instances for the Demolition of the Fort of *Tamaja*, built by the *English* in a Territory indisputably belonging to his Majesty ; and an Agreement being made, that the Governors of *Florida* and *Carolina* should communicate to each other their Orders to settle this Dispute ; the former having sent an Officer with 25 Men, together with the Copies of those of *England*, they were disarmed, shut up in the Fort, and three Days after carried to *Carolina*, where they suffered a most rigorous and indecent Prisonment. The same Perfidiousness was shewn in the Year 1735, when the *British* Ministry assured Don *Thomas Geraldino*, Minister Plenipotentiary at *London*, that Mr. *James Oglethorpe*, appointed to go to *Carolina*, was charged with Orders to regulate its Limits in Concurrence and with the Agreement of the Governor of *Florida* ; but on his Arrival, the Orders he produced were so contrary, that he was by them impowered to people all vacant Places, and to put the same in Execution ; he began immediately to commit Acts of Hostility, inso-much that he presented himself, with an armed Force, before the Fort of *St. Augustine*, an Action very conformable to the Patent issued by the *British* King the 2^d of *June*, 1732, by which he disposes of the Dominions of that Continent, and even of the Sealing Grant, to the Company formed for the Establishment of the Colony of *Georgia*, whatever had not before been occupied by the Subjects of *England*, a Cession diametrically opposite to the 7th Article of the Treaty of 1670, which denies him any Right over what he was not then possessed of, tho' that sort of Despotism is not to be so much wondered at, seeing that, amongst other Usurpations which *Spain* at different times exclaimed against, there is no better Foundation for the Cutting of Log-wood at *Campechy*, which is supported by Force, and not with Reason ; a Proceeding carried to that Excess, that it caused the ruining at three different Sieges the unfortunate People of *Baccalaar*, who faithfully defended

Supone igualmente el Rey Británico por causa de la Guerra, no haver pagado S. M. en el termino prefijido, que fue el 5. de Junio, las noventa y cinco mil libras Sterlinas, que se estipularon por resto de las reciprocas pretensiones en punto de Presas, y averse violado assi manifestamente la Convencion ; y como quando se publicaron las Represalias en Espanna, se hizo patente la poderosa razon de no haverlas satisfecho, annade el Rey Britannico, que es solamente *un colorido, y pretensiones destituidas de tydo fundamento* : arbitrio facil para talir del empenno sin contestaciones ; pero que dexa en su fuerza, y vigor lo declarado por S. M ; y assi, no dudará la Europa, si lo reflexiona, que se obrò aqui de buena fee ; y que si la Inglaterra buviese hecho lo proprio, se havria reglado, y cumplido todo por el Nivel de la Convencion. No fue otra cosa el desarmar las Esquadras, luego que se ratificò aquella en Londres, el dàr las Ordenes para la Carolina, y el instruir sin dilacion à los Plenipotenciarios, sino una clara manifestacion de la sinceridad, con que se procedia : estos hechos, ni se pueden negar, ni admiten interpretacion ; à lo menos, digan los Ingleses si es verosimil, ni cabe en la menos cauta politica, soltar las Armas en la conclusion de una disputa, que precisò à tomarlas, al mismo tiempo que se pensaba bolver à ella, segun se indica ? No responderàn, ni tendràn què ; pero lo haràn sus operaciones, que como contrarias à las referidas, convencen que nunca pensò la Inglaterra en cum cumplir lo prometido, ni aora tampoco en disfrazar lo mal obrado.

Lo primero que descubre sus siniestros intentos es la permanencia de las Esquadras del Almirante Haddock en estos Mares, despues de firmada, y ratificada la Convencion ; pues aunque no se incluyó en ella en ter-

the Justice of his Majesty's Cause, 'and would have hindered the Continuance of their unjust Attempt.

The *British* King mentions likewise for a Cause of the War, that his Majesty has not paid, at the Term prefixed, which was the 5th of *June*, the 95000 *l.* stipulated as a Balance for the reciprocal Pretensions in Matter of Prizes, and that by this the Convention has been manifestly violated; and when Reprisals were proclaimed in *Spain*, a weighty Reason why that Sum was not paid, was made publick. The *British* King adds, that it was nothing but a feigned Pretence, and destitute of all Foundation, an easy Method indeed, to be rid of an Engagement without Contestation, but which leaves in its Force and Vigour, what is declared by his Majesty, and so all *Europe*, with the least Reflection, will not doubt of the good Faith and Sincerity of our Proceedings, and if *England* had done the same, all would have been regulated and accomplished upon a Level with the Convention; the disarming of the Squadrons, as soon as it was ratified at *London*, the sending of Orders in regard to *Carolina*, and giving immediate Instructions to the Plenipotentiaries, was a plain Demonstration of the Sincerity of our Proceedings; these are Facts which can neither be denied nor admits of Interpretation; at least, let the *English* say, if it is likely, or consistent with the least Policy, to lay down Arms in the Conclusion of a Quarrel, which was precisely the Cause of taking them up at the very time that there was a Thought of renewing it, as it now appears, they cannot answer, nor have nothing to say, but their Actions will make it out, and as they are contrary to what is reported, they are a convincing Proof, that *England* never thought of accomplishing her Promise, nor now is she ashamed of her bad Proceedings.

The first Thing which discovers the sinister Intention of the *English* is, the continuing of their Squadron, under Admiral *Haddock*, in these Seas, after the signing and ratifying the Convention; for tho' it was not specified

terminos expreſſos, que ſe retiraffen eſtas fuerzas, no arguye ſencillez en el animo entrar à la amiſtad con las miſmas preparaciones con que el enojo a menazò la Guerra; y mas caminando tan remiſſo el Miniſterio Ingles en la execucion de lo convenido, que en 27. de Marzo reſulta de un Papel del Duque de Newcaſtle de eſta fecha, que aún no ſe avian expedido las ordenes norreſpondientes à la Carolina.

Pruebaſe mas la ſimulada intencion de la Inglaterra con los tres Oficios, que ſu Miniſtro Plenipotenciario en eſta Corte Don Benjamin Keene, preſento en 17. de Abril. Repitiò en uno lo que pidiò en otro de 19. de Febrero, y fue, que ſe expidieſen Ordenes à los Guarda Coſtas de la America, para que ceſſaſſen en las depredaciones, y violencias, que cometian, en el interin que duraban las Conferencias; y como ſe reſpondiò en 24. del miſmo mes de Febrero: *Que no ſe les avia mandado que las practicaffen, aun durante las paſſadas diferencias, ni omitido haſta entonces el corregirlas, quando ſe havian averiguado; y que procuraria S. M. mantener la buena armonia, que acababa de afirmarse entre las dos Naciones, ſin permitir que paſſaſſen ſus Vaſſallos mas allà de lo juſto à la ſeguridad de aquellos Dominios, y ſu Comercio.* Inſiſtia eſte Miniſtro en nombre del Rey Britanico, en que pudiendo ſer interpretadas eſtas aſſeveraciones, y dár motivo por conſiguiente à eſugios por parte de los Gobernadores, y otros Miniſtros de las Indias, ſe embiaſſen luego Ordenes claras, y precisas para poner fin enteramente à todas las violencias cometidas haſta entonces, y para que pudiesſen gozar los Subditos de Inglaterra, durante el tiempo de las conferencias, ſin turbacion, ni embarazo la libre Navegacion en los Mares de la America, ſegun les correſpondiente por los Tratados, y por el derecho de las gentes. Eſta repeticion de Oficios, y las Clauſulas del de 17. de Abril, que ſe acaban de traſladar, ſon un vehemente indicio, de que recelando el Rey Britanico, que diferir los puntos en diſputa para las conferencias, feria aventurar el golpe de mano, que ſe apetecia, en los Azogues,

in express Terms, that those Forces should retire, yet it don't argue a sincere Mind to enter into Friendship with the same Preparations as when in Anger and menacing a War ; besides, such has been the Remissness of the *English* Ministry in executing what was agreed upon, as, on the 27th of *March*, appears by a Paper from the Duke of *Newcastle*, of that Date, that Orders relating to *Carolina* had not yet been given out.

What proves more the dissembled Intention of *England* is, the three Requests presented, on the 17th of *April*, by their Minister Plenipotentiary at this Court, Mr. *Benj. Keene*, presented on the 17th *April*, in one of which he repeated what he had demanded in another of the 19th of *February*, which was, that Orders should be sent to the *Guarda Costas* in *America* to cease all Depredations and Violence committed by them, while the Conferences should last, and as he was answered, on the 24th of the same Month of *February*, That there was no Orders given for such Practices even during the last Difference, nor was ever wanting Chastisement of the Authors, whenever they were averred ; and that his Majesty would endeavour to maintain that good Harmony which was just confirmed between the two Nations, without permitting his Subjects to act otherwise than with regard to the Security of those Dominions and their Commerce.

This Minister insisted in the Name of the *British* King, That these Assertions being liable to Interpretation, and would consequently give Pretence to Evasion to the Governors and other Ministers in the Indies, that therefore clear and distinct Orders should be immediately sent to put an End intirely to all Violences committed till that time, in order that the Subjects of England should enjoy, during the time of the Conferences, without Hinderance or Molestation, a free Navigation in the American Seas, as far as were conformable with the Treaties and Laws of Nations. These repeated Memorials, and the Clauses of the 17th of *April*, just now translated, are strong Evidences of mistrusting the *British* King, and that deferring the
Points

gues, Navios de Buenos Ayres, Galeones, ò Flota; ò bien que dexar, que se recogiesen tantos efectos, sería hacer mas difíciles sus idèas: quiso anticipar la insinuacion de sus pretensiones, para tener, en el caso de que se contextasen, un pretexto de practicar lo mismo, que ha executado despues.

Corrobora este pensamiento otro de los tres Oficios de 17. de Abril, repeticion tambien de uno de 19. de Febrero, en que se pedia la restitution de el Navio la Sarah, su Capitan Jason Vaughan, apresado en 29. de Enero de 1738. pues no obstante, que se assegurò en la Respuesta de 16. de Marzo, que luego que se remitiesen los Autos, se passarian à los Plenipotenciarios, *para que en virtud de lo ultimamente capitulado los examinasen, y decidiesen*, sin atender la Corte Britanica à este justo procedimiento, ni al segundo Articulo, separado de la Convencion, en que hablando de los sucesos posteriores al dia 10. de Diciembre de 1737. como es este, se dice; *que la decission del caso, ó casos, que puedan acaecer assi, deberà ir à los Plenipotenciarios, por quitar qualquier pretexto de discordia, para que los determinen segun los Tratados*: bolviò con nueva instancia, à clamar por la restitution, provocando con el desprecio de lo convenido à menos moderada rèplica, que la primera, para colorir con ella los insultos premeditados.

Pero lo que del todo convense la simulacion de su conducta, es el ultimo de los Oficios de 17. de Abril, en que renovò el Ministro Britanico la instancia de la aclaracion de las Cédulas, concedidas por S. M. à la Compannia del Assiento para la restitution de los Efectos represalidos; y la de que se conviniesse en cantidad cieta, por lo que por su importe supone, que ha de haver, antes de pagar las sesenta y ocho mil libras Esterlinas, que debe à S. M. por quenta liquida del derecho

Points in Dispute to the Conferences, was to hazard the master Stroke, so much longed for, on the *Azogues, Buenos Ayres, Ships, Galloons, or the Flota*, or if those Effects should be brought home, his great Idea would thereby be rendered more difficult to compass, he chose rather to anticipate an Intimation of his Pretensions to have ready, if needful, a Pretence to execute what he has done since.

This Thought is corroborated by another of the three Memorials of the 17th of *April*, a Repetition of one of the 19th of *February*, where Restitution was demanded of the Ship *Sarab*, Captain *Jason Vaughan*, taken the 29th *January*, 1738, for, notwithstanding they were assured in the Answer of the 16th of *March*, that as soon as proper Vouchers were remitted, they should be put in the Hands of the Plenipotentiaries, *that they, by virtue of the last Agreement, should examine and decide them.* The Court of Great Britain, without giving Attention to this just Proceeding, nor to the 2d Article, separate of the Convention, in which, speaking of the last Proceedings of the 10th of *December*, 1737, such as this was, it is said, *that the Decision of the Case, or Cases, which may happen to fall out, shall be left to the Plenipotentiaries to remove all Pretence of Discord, and to be determined according to the Treaties.* He insisted a-new, and claimed again the Restitution, provoking with his Disrespect for what was agreed to a Reply less moderate than the first, to serve him as a Colour for their premeditated Insults.

But what convinces more than the rest, the Diffimulation of their Conduct, is the last of the Memorials of the 17th of *April*, in which the *British* Minister renewed his Instance for the Explanation of the Schedules granted by his Majesty to the *Affiento* Company, for the restoring their Effects taken by Reprisal, requiring a certain Sum should be agreed upon for what is supposed belonged to them before the Payment of the 68000*l.* Sterling, due to his Majesty upon the Aquidation

derecho de Esclavos, y útiles del Navio la Real Carolina: y como este punto pide mas prolixo examen, primero que facer la consecuencia del oculto designio, que se va probando; se hace forzoso, el discurrir solo las circunstancias, que precedieron à la Convencion, y que bolvia à acalorar el mencionado Oficio.

Para entero convencimiento de que la pretension negada à la Compannia por lo respectivo à represalias, no puede justificar la conducta, que descubre en el el Ministerio Britanico, basta la Reflexion, que ofrece el Artículo III. de la misma Convencion con un ligero recuerdo de lo que con motivo de él antecede. Convenida la suma que havia de entregar S. M. para la paga de los creditos, que con titulo de represalias alegaba la Nacion Inglesa contra esta Corona, intento tambien, que se arreglase cantidad cierta del importe, que suponía la Compannia debersele con igual titulo. Resistiólo S. M. y no menos, que se mezclase (como la Compannia solicitaba) su figurado haber con el indisputable reconocido debito de las sesenta y ocho mil libras Esterlinas; y viendo el Ministerio Britanico lo lusto de una, y otra repulsa, pasó à firmar la Convencion, sin insistir en esta circunstancia, con tan absoluto abandono de ella, que conociendo las mal fundadas pretensiones de la compannia, asintió à la declaracion siguiente, como preciso invariable presupuesto de la Convencion.

„ Don Sebastian de la Quadra, Consejero, y primer Secretario de Estado de S. M. C. y su Ministro
 „ Plenipotenciario para la Convencion, que se trata
 „ con el Rey Britanico, de orden de su Soberano, y
 „ en consecuencia de las repetidas Memorias, y conferencias que han mediado con Don Benjamin Keen,
 „ Ministro Plenipotenciario de S. M. B. y de haver
 „ convenido en ellas con recíproco acuerdo, en hacer la presente Declaracion como medio esencial,
 „ y

dation of Account of a Duty on Slaves, and the Profits of the Ship the *Royal Carolina*, and as this Point requires a more prolix Examination before entering on the Consequence of the hidden Design under Proof, and it becomes necessary to go on in setting forth the Circumstances that preceeded the Convention, which were enflamed by the aforesaid Memorial.

To be intirely convinced that the Pretension, denied to the Company, with respect to Reprisals, cannot justify the Conduct which is discovered of the *British* Ministry, there needs no more than the Reflection which offers in the 3d Article of the same Convention with a slight Remembrance of what preceded the same, and the Motive of it. In regard to the Sum which his Majesty was to pay to the *English*, alledged to be due to them, under the Title of Reprisals, from this Crown, it was moved also, that a certain Sum should be allowed to the Company, which she supposed was owing to her with an equal Title. His Majesty opposed that Proposal, and no less, that there should be a Mixture (which the Company solicited) of an imaginary Debt, with the indisputable and acknowledged Debt of 68000 *l.* Sterling, and the *British* Minister, seeing the Justness of the one and the other Denial, proceeded to Sign the Convention, without insisting on this Circumstance, and giving it so intirely over, that knowing the ill-grounded Pretensions of the Company, assented to the following Declaration, as a precise and unvariable Presupposition to the Convention.

• Don *Sebastian de la Quadra*, Counsellor, and first
 • Secretary of State to his Catholick Majesty, and
 • his Minister Plenipotentiary for the Convention,
 • which is in Treaty with the *British* King, by an Or-
 • der of his Sovereign, and in consequence of the re-
 • peated Memoirs and Conferences held with Mr.
 • *Benjamin Keene*, Minister Plenipotentiary to his *Brit-
 • ish* Majesty, and having agreed in them with reci-
 • procal Accord to make the present Declaration as
 • essential

„ y preciso, para vencer tan debatidas disputas, y que se pueda
 „ firmar la mencionada Convencion; declara formalmente, que
 „ S. M. C. se reserva integro el derecho, de poder suspender el
 „ Asiento de Negros, y expedir las ordenes necesarias à su exe-
 „ cucion, en el caso de que la Compannia no se sujete, à pagar
 „ dentro de un breve termino las sesenta y ocho mil libras Ester-
 „ linas, que ha confesado deber del derecho de Esclavos, segun
 „ la regulacion de cinquenta y dos peniques por peso, y de los
 „ utiles del Navio la Real Carolina, y igualmente declara, que
 „ baxo la validacion, y vigor de esta protesta, se procederà à fir-
 „ mar la citada Convencion, y no en otro modo; porque en este
 „ firme supuesto, y sin que por motivo, ni pretexto alguno quede
 „ eludido, se ha alianado à ella S. M. C. El Pardo à 10. de Enero
 „ de 1739. Don Sebastian de la Quadra.

Ahora si que puede inferirse, qual era el animo de la Inglaterra
 en suscitir las disputas, que reconoció, al firmar la Convencion,
 sin defensa; pero mejor en otro Oficio de 4. de Junio, quando ar-
 rojando ya la mascara, se negó al Rey la facultad de suspender el
 Asiento, que fue lo mismo, que burlar la Declaracion, y lo con-
 venido, para precipitar à S. M. al rompimiento, y vestir el que
 por medios tan obliquos se procuraba con una menos descubierta
 violacion de la buena fee.

Y si aún no queda bien patente su idea, la acabarán de descu-
 brir las Deposiciones remitidas ultimamente de la Havana de los
 Marineros de la Esquadra del Almirante Bröun, aprehendidos en
 las cercanias de Bahía-Honda. Declaran estos, que el 10. ò 12.
 de Julio entró en Jamayca un Paquebote, con la Noricia de ha-
 verle declarado la Guerra, y con ordenes para hostilizar à los Es-
 pañoles; en cuya consecuencia salieron el dia 21. à executarlas,
 habiendo ya aprolado antes, y luego que llegó el Paquebote, una
 Golera, que venia de Cuba con diez mil pesos. No parece, que
 con este suceso se podrá ya dudar todo lo antecedentemente dicho;
 pues las represalias en Londres no se publicaron hasta 21. de Julio:
 y siendo forzoso, que para arribar el Paquebote el 10. ò el 12. de
 este mes à Jamayca, huviesse partido de Inglaterra à lo menos à
 los ultimos de Mayo, y que la resolucion de despacharle se huviesse
 tomado anteriormente; se hace innegable, que la Corte Britanica
 ni observó la legalidad, que requería la Convencion, ni pensó ja-
 más en cumplirla, sino en adormecer à S. M. para prorrumpir en
 coyuntura oportuna à sus dobleces.

Que conoció S. M. anticipadamente estos intentos, y que quiso
 inuclizarlos con el disimulo, y con manifestar solo su sincero deseo
 de arreglarse à lo convenido, lo acredita la moderacion en las res-
 puestas à los Oficios citados; lo que insinuó el Marqués de Villa-
 rias

essential and precise Means, to overcome so much debated Disputes; and that the said Convention might be concluded formally, declares, that his Catholick Majesty reserves to himself entirely the Right of suspending the *Assiento* of Negroes, and to issue Orders necessary for its Execution, in case the Company don't submit to pay within a short Term, the 68000 *l.* Sterling, which, by their Confession, is owing for the Duty of Slaves, according to the Regulation of 52 Pence *per Pefo*, and the Profits of the Ship the *Royal Carolina*; and his Majesty declares likewise, that under the Validity and Vigour of this Protest, it will be proceeded to the signing of the said Convention, and not otherwise, because with that firm Supposition, not to be eluded by any Motive or Pretext whatsoever, it has been consented to by his Catholick Majesty. At the *Pardo*, the 10th January, 1739.

Don Sebastian de la Quadra.

Now, tho' it may be inferred, with what Intention England raised Disputes, void of all Defence which she acknowledged at signing of the Convention, yet much more by another Instrument in Writing, of the 4th of June, when throwing the Mask aside, the King was denied the Faculty of suspending the *Assiento*, which was the same as basting the Declaration and Agreement, in order to precipitate his Majesty to a Rupture, and cover the intended Breach with oblique Means, and too barefaced a Violation of Sincerity and Faith.

And if that View is not yet clear enough, it will be made so by the Depositions sent lately from the *Havana*, of the Sailors belonging to Commodore Browne's Squadron, who were apprehended in the Neighbourhood of the Bay of *Honda*. They declare, that on the 10th or 12th of July, there arrived a Packet-boat at *Jamaica*, that brought News of the War being declared, with Orders to exercise Hostilities against the *Spaniards*; in consequence of which, they began so to do the 21st, having already made Prizes, and also taken a Sloop which came from *Cuba* with 10000 *Pesos*. At the Packet-boat's Arrival, this being a Fact so clear, there is no doubt of what has been said before; for the Reprials were not proclaimed in *London* till the 21st of July, and not possible that the Packet-boat could arrive at *Jamaica* on the 10th or 12th of that Month, without having left *England*, at least towards the End of May, and without doubt, Resolutions must have been taken to send her ere that time, which is undeniable; that the *British* Court neither observed the Legality required by the Convention, nor ever thought of accomplishing it, but only mean to lull his Majesty asleep, and watching in the mean time for a Conjunction and Opportunity to favour their Duplicity.

That his Majesty knew before-hand these secret Intentions, and willing to render them useless, he dissembled and manifested only a sincere Desire to stick close to what was stipulated, which he shewed in his Moderation in the Answers made to the Instruments

rias primer Secretario de Estado, y del Despacho D. Don Benjamin Keene en el mes de Abril, y ya se tocó en la publicacion de reprefalias, y mucho mas lo que declararon los Plenipotenciarios Españoles á los Ingleses en la Conferencia de 15. de Mayo, y es como se sigue :

„ El Rey nuestro Amo nos manda expresar á V. S. S. que es
 „ muy digno de reparo, que despues de haverse dado las ordenes
 „ al Almirante Haddoch para su regreso á Inglaterra, luego que
 „ se ratificó la Convencion, se le ayan revocado con las de que
 „ permanezca en el Mediterraneo ; lo que arguye, que ha mudado
 „ de intento S. M. B. y quo si el primero fue de seguir lo conve-
 „ nido, cabe sin violencia, que sea opuesto el segundo ; por lo
 „ que considera S. M. dichas ordenes opuestas enteramente á la
 „ antigua amistad, que acaba de renovarse entre las dos Coronas ;
 „ y la Declaracion hecha por V. S. S. en nombre de su Soberano,
 „ de que se halla el referido Almirante con ordenes para no cau-
 „ sar la menor ofensa, ó inquietud á la España, aunque la crea
 „ S. M. no podrá persuadirle al Mundo, que juzga solo por las
 „ apariencias ; y aunque esté bien acreditado lo infructuoso de es-
 „ tos medios por la constancia de S. M. á vista de los Armamentos
 „ de Inglaterra, no le permite su delicado honor, que dexé de mi-
 „ rar la permanencia de esta Esquadra en el Mediterraneo, como
 „ un obstaculo al logro del pacifico fin de las Conferencias, im-
 „ possibilitando la conclusion de los Negocios, que deben tratarse
 „ en ellas.

„ Ni es menos notable el haverse mandado prevenir tres Navi-
 „ os para aumentar la Esquadra, que está en Jamayca ; pues aun-
 „ que se pretexta, que esta providencia mira solo, á que aya bas-
 „ tante Navios en aquella Isla, con que embiar comboyados, y
 „ seguros los de Comercio, que vengan á Europa, no se baha cre-
 „ ible, ni verosimil, á vista de que en 27. de Marzo, segun un
 „ Papel de esta fecha del Duque de Newcastle, no se havian ex-
 „ pedido aun las ordenes á la Carolina, estando cangendas las
 „ ratificaciones desde 4. de Febrero. Y no obstante, que S. M.
 „ tenia un justo motivo de suspender las Conferencias, todavía
 „ para acreditar su amor á la Paz, y la buena fe con que cumple
 „ lo capitulado, viene en que no se dilaten ; pero al mismo tiempo
 „ le es preciso declarar, que no deberá estranar la Inglaterra, que
 „ se traten los puntos pendientes con la mas rigida justicia sin que
 „ por parte de S. M. pueda tener lugar la mas minima condescen-
 „ dencia á la gracia, mientras la Esquadra del Almirante Haddoch
 „ se mantuviere en el Mediterraneo. Ultimamente, que basta que
 „ esta Esquadra se retire á Inglaterra, y se mande executar lo pro-
 „ pio á las que por motivo de los disgustos passados se hallaren en
 „ la America ; es consequente, que se ofrezcan poderosos estorvos á
 „ S. M. para ajustarse enteramente á lo convenido : porque siendo
 „ las

before-mentioned, this was insinuated by the *Marquis de Villar*, first Secretary of State, and Dispatches gave to Mr. *Benjamin Keene* in the Month of *April*, and was also hinted at in the Publication of Reprisals, and much more in the Declaration made by the *Spanish* to the *English* Plenipotentiaries in the Conference of the 15th of *May*, as follows:

'The King our Master orders us to express to your Excellencies, that it merits a great Attention, that Orders having been given to Admiral *Haddock* to return to *England* as soon as the Convention was ratified, these Orders had been revoked, and others given him to remain in the *Mediterranean*, which shews that his *British* Majesty has changed his Intention; and if his first Orders were to be observed, what was stipulated in his second, without any violent Construction, appears to oppose it, and his Majesty can't but look at these Orders as an entire Contravention of that ancient Friendship, which is just renewed between the two Crowns; and as for the Declaration made by your Excellencies in the Name of your Sovereign, that the said Admiral has altogether Orders not to give the least Molestation or Offence to *Spain*. His Majesty may believe it is not easy for the World, who only judge by Appearances, to be persuaded of it, and tho' it is sure enough that these Means had no Effect upon the Constancy and Firmness of his Majesty, at the Sight of the *English* Armaments, yet the Delicacy of his Honour does not permit him to behold the Continuance of that Squadron in the *Mediterranean*, but as an Obstacle to the Enjoyment of the Pacifick Ends of the Conferences, which render impossible the Conclusion of those Affairs to be treated in them.

'It is no less remarkable, that three Ships were commissioned for augmenting the Squadron stationed at *Jamaica*, for tho' it is pretended, that Prudence requires it to have Ships enough in that Island, to convoy and secure the Merchant-men that come to *Europe*, yet it is neither credible nor likely, seeing that on the 27th of *March*, as appears by a Paper of that Date, from the Duke of *Newcastle*, Orders had not yet been given out and sent to *Carolina*, tho' the Ratifications having been exchanged since the 4th of *February*, and notwithstanding his Majesty has a just Reason to suspend the Conferences; however, to testify his Love for Peace, and his Faith in accomplishing the Agreement, he condescended that they might not be delayed.

'Yet, at the same time, he precisely declares, that *England* must not take it strange, if the Points depending are treated with the most rigid Justice, nor that the least Condescension or favour, is to be expected on the Part of his Majesty, while the Squadron under Admiral *Haddock* remains in the *Mediterranean*; and lastly, that until that Squadron return to *England*, and like Orders be sent to all others, which, on the Account of past Disgusts, are in *America*; his Majesty cannot but feel a powerful Hindrance against intire conforming himself to the Agreement, for *England*,
'showing

Las demostraciones de la Inglaterra distantes de la quietud pasada no podrá S. M. mantener la buena fee con que procede, si no la experimenta recíproca, y ve deponer las armas, que es la señal mas convincente de la Paz.

De este Instrumento, que tanto prueba la recta intencion de S. M. na pidieron copia los Plenipotenciarios Ingleses, que es muy nottable descuido, imposible en su advertencia, y muy propio de la instruccion con que se hallaban, y de la torcida fee con que se procedia. Y no obstante, que assi se comprehendi entonces, aún esperó S. M. à que mudasse la Corte Britanica de conducta, en fee de las seguridades dadas repetidas veces à Don Benjamin Keene por el Marques de Villarias; de que como se retirasse à Inglaterra la Esquadra del Almirante Haddoch, inmediatamente se dispondria la satisfaccion de las noventa y cinco mil libras Esterlinas; pero viendo en el enunciado Oficio de 4. de Junio el empenno en abrigar la injusta resistensia de la Compannia à la paga de las sesenta y ocho mil libras, la Esquadra de Haddoch en Gibraltar, las afectadas lentitudes de los Plenipotenciarios Ingleses en abrir las Conferencias, y despues de abierras un absoluto defensreno, y inversion del patente literal sentido de los Tratados en sus pretensiones; no se resolvió S. M. à satisfacer las noventa y cinco mil libras Esterlinas, estipuladas en la Convencion; assi porque infringida esta por el Rey Britanico, no se consideró obligado S. M. como porque fuera culpable indecorosa condescendencia, dar armas à unos ya casi declarados enemigos, sin esperanza alguna, segun las demostraciones suyas, de que corrigiessse esta nueva bondad su interminable ambicion.

Sentados estos hechos, y las fuertes ilaciones que facilitan, aún no se vale S. M. de su apoyo para justificar los ulteriores Actos, que han sido consequencias de aquel enlace; porque es evidente, que publicó las represalias, porque se publicaron antes en Inglaterra, y que declaró la Guerra, porque la declararon antes los Ingleses, considerando esta razon por potissima para no ser responsable delante de Dios, ni los hombres de los estragos funestos, que ocasiona el furor de las Armas; y conociendo, que los motivos antecedentes à este estremo, dexaron de serlo desde que por la Convencion se acordó el ajustarlos amigablemente. En cuyo supuesto se evidencia, que el pretextarlos el Rey Britanico para el rompimiento, es disfrazar con apariencias la caprichosa irregularidad de sus Vassallos, y precision de condescender à ella; y que el no usar S. M. de tantos, tan poderosos, y descubiertos fundamentos de su ultima determinacion, sino para hacer patente la verdad, es arreglarle à la acertada conducta de no engannar à la Europa con el fin de turbarla, que es lo contrario que solicita la Inglaterra.

" *shewing a Disposition far distant from the agreed for Tranquillity*
 " *his Majesty can't maintain the good Faith with which he has pro-*
 " *ceeded, except he finds it reciprocal, and sees Arms laid aside, the*
 " *only convincing Sign of Peace.*

The *English* Plenipotentiaries never asked a Copy of that Instrument, which is such a Proof of the upright Intention of his Majesty; a most notable and slightful Neglect, scarce for Men of their Advertency, as most adapted to the Instructions they carried with them, and the twisted Faith they acted with; and notwithstanding, as it was then apprehended, his Majesty hopes still that the *British* Court will change its Conduct, in Consideration of the Assurances repeated several Times to Mr. *Benj. Keene*, by the Marquis of *Villarias*, that as soon as the Squadron of Admiral *Haddock* should be called back to *England*, the Payment of the 95,000 *l.* Sterling would be immediately discharged; yet, by seeing the Terms of the written Instrument of the 4th of *June*, a Resolution to countenance the unjust Denial of the Company to pay the 68,000 *l.* the Squadron of *Haddock's*, at *Gibraltar*, the affected Prolongations of the *English* Plenipotentiaries for the opening the Conferences, and after being opened, an absolute and unbounded Haughtiness in their Pretensions, inverting the plain and literal Sense of the Treaties, his Majesty resolved not to comply with the Payment of the 95,000 *l.* Sterling, stipulated in the Convention, not only for its having been infring'd by the *British* King, his Majesty did no more consider himself obliged; but besides, it would have been a blamable and dishonourable Condescension to give Arms to those who were almost declared Enemies, without any Hope, according to our outward Appearances, from them, that such new Bounty would put a Check to their unlimited Ambition.

These Facts, and the strong Inference which they prompt to, being thus set forth, his Majesty does not think it necessary to justify the *Ulster* Acts, or their Consequences, since it is evident Reprisals were proclaimed, because they were first proclaimed in *England*, and War proclaimed because the *English* declared it before; this Reason he considers as the chief, not to be responsible before God and Man for all the dreadful Disasters occasioned by the Fury of Arms, knowing that the Motives preceeding that Extremity, ceased to be such from the Moment that it was agreed by the Convention to have adjusted them amicably. In which Supposition it is evident that to use them as a Pretence for a Rupture, as the *British* King does, it is to disguise under such Appearances the capricious Irregularities of his Subjects, and the Necessity he lies under to condescend to them, and that to make use of so many, so weighty, and so manifest Grounds and Reasons as his Majesty does for his last Determination, and only to put the Truth in a clear Light; is to stick fast to the Rules of a right Conduct, not to impose upon all *Europe*, with an Intent to embroil it, which is the Reverse of the present Endeavours of *England*.



